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Portland (Me.).
Board of Aldermen.

Report of the Committee appointed by the Board...

Portland

1855

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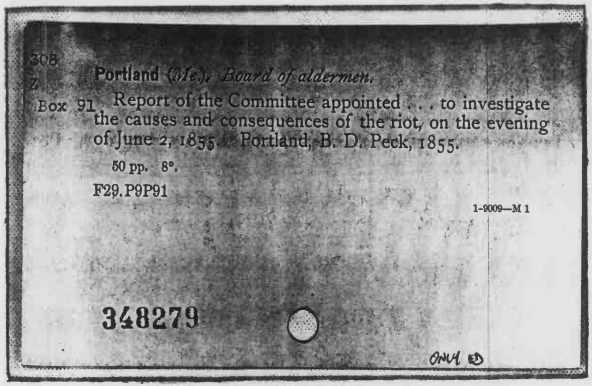
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REPORT OF THE COMMITTEE

APPOINTED BY THE

BOARD OF ALDERMEN

OF THE

CITY OF PORTLAND,

TO

INVESTIGATE THE CAUSES AND CONSEQUENCES

OF

THE RIOT,

ON THE EVENING OF JUNE 2, 1855.

PORTLAND:
BENJAMIN D. PECK, CITY PRINTER.
1855.

To the Board of Aldermen of the City of Portland:

THE Committee appointed by your Board, under vote of June 9th, 1855, to investigate the transactions of the evening of June 2nd, and their consequences, have been engaged in the duties assigned to them twelve days, laboriously examining witnesses, and other testimony. They have this day completed their labors, and submit to your Board, a report embracing the material points of the evidence, with the conclusions they have drawn from it.

By order of the Committee,

WM. WILLIS, *Chairman.*

PORTLAND, July 10, 1855.

REPORT

OF THE

COMMITTEE OF INVESTIGATION.

The Committee appointed June 9th, 1855, by the Board of Aldermen of the City of Portland, "to investigate the circumstances attendant upon the extraordinary transactions of the 2nd inst. and to report in such manner and form as they shall think proper:" commenced their sessions at the Chamber of the Common Council, June 12th.

The Hon. Charles S. Davies having been named in the order appointing the Committee, as Chairman, called the meeting to order; and Wm. Goodenow, Esq., was chosen Secretary.

After passing through some preliminary proceedings, Mr. Davies remarked, that the state of his health would not allow of his discharging the duties of the Chair, which from the nature of the case, he foresaw must be arduous and protracted, and while he felt it a duty to accept the appointment, and render what aid he could on the highly important subject which they had been invited to investigate, he thought some other gentleman on the Committee, of sounder health than it was his privilege to enjoy, would

INTENTIONAL SECOND EXPOSURE

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better preside over their deliberations. He therefore asked leave to withdraw from the position to which he had been designated by the Board of Aldermen. Mr. Davies was accordingly excused from serving as Chairman, and Wm. Willis, Esq. was unanimously chosen in his stead.

The place of the Rev. Mr. Stebbins, who declined acting with the Committee, was supplied by the choice of James C. Churchill, Esq.; three of the persons named on the Committee, viz: Rev. Mr. Pratt, Samuel Hanson, and Henry B. Hart, were absent from town. Mr. Hart on his return took his seat at the Board. The other gentlemen not returning until the examination of witnesses had proceeded several days, declined taking their seats. The remaining members of the Committee, consisting of eighteen gentlemen, have given a prompt and assiduous attention to its duties.

Toward the close of the session of the first day, the Committee sent a notice by their Secretary, to the Mayor and Aldermen, informing them that they were organized, and would be ready on the following morning to hear testimony on the subject of their appointment, or receive any communication from them.

They also voted that not being a judicial tribunal they would not require any witnesses who should be brought before them to be sworn, but would take their testimony under a caution, that they would speak the truth in the same manner as if they were under the sanction of an oath. And they further voted, that they would seek information from all sources, which could impart light or knowledge on the circumstances leading to, and resulting from, the disturbances of Saturday evening, or on the occurrences of the period.

Numerous witnesses conversant with the transactions of the evening, including Alderman Ring, the City and Deputy Marshals, the Sheriff of the County, the City Solicitor, Captains Green and Roberts, Mr. Poor of the *State of Maine*, and many other gentlemen of standing, respectability and character, appeared and testified fully and frankly, to facts within their knowledge; sixty witnesses were thus examined.

The Committee also examined and considered the testimony of witnesses produced and sworn before the second Inquest, as reported in the papers; and in several instances, had the witnesses themselves before them, to confirm or vary the published reports. They also examined the testimony taken before the first Inquest, as reduced to writing, signed and sworn to, before the Coroner, which was verified in several of the cases by a re-examination of the same witnesses.

They had also before them the records of the City Government, relating to the purchase of the liquors, the establishment of the Agency, and collateral subjects.

The Committee during their investigation invited the persons on whose complaint the warrant for the seizure of the liquors in the agency was granted, to testify before them. But they declined doing so, in a written communication. Two other gentlemen whose testimony they sought, also declined to attend, viz. Henry B. Stone, of the *State of Maine*, and Capt. Charles C. Harmon. With these exceptions, every person who had been invited to testify, freely came before the Committee.

The Committee will now proceed to state the principal and important facts as they appeared before them, with their conclusions derived from those facts. They pass

purposely by, without notice, numerous statements and conjectures which have appeared in testimony, as immaterial, and having no relevancy to the true issues in this case.

The law "for the suppression of Drinking Houses and Tippling Shops," approved March 16th, 1855, went into operation May 1st.

The act in its first section provides as follows:

"Agents may be appointed under this act by the Mayor and Aldermen of Cities, the Selectmen of Towns, and the Assessors of Plantations, as soon after the first day of May next, as may be."

Section 31st provides:

"All purchases of liquors to be sold by such agents, shall be made by the Mayor and Aldermen of Cities, Selectmen of Towns, and Assessors of Plantations."

The agent, it will be seen, has no authority to purchase liquors, any more than any other person, and the law declares, "he shall have no interest in the liquors sold, or in the profits of the agency." He is to have a fixed compensation for his services.

It cannot, therefore, affect the legality of the purchase of liquors by cities or towns, whether it is made before or after the appointment of an agent. His duty is to sell, and not to buy; and he cannot sell the liquors before they are purchased.

On the 3d of May, at the first meeting of the Mayor and Aldermen, after the law went into operation, the following proceedings were adopted:

"ORDERED, That the Mayor, and Aldermen Carlton and Brooks, be a Committee to arrange for the establishment of a City Agency for the lawful sale of spirituous liquors, wines, &c., for medical and mechanical purposes, under the provisions of an Act entitled "An Act for the Suppression of Drinking Houses and Tippling Shops," passed at the last session of the Legislature, and approved March 16, 1855; and also to prepare and report to this Board such Rules and Regulations as may be

necessary for the government of the Agent hereafter to be appointed, and such compensation for his services as they may deem suitable."

"ORDERED, That the Mayor and Aldermen be authorized to use the shop under the City Hall, now occupied by Messrs. Waite and Butler, for the accommodation of a City Agency for the sale of alcoholic liquors for medicinal and mechanical purposes."

The last Order was passed by a concurrent vote of the two Boards.

"In Board of Aldermen, May 17, 1855:

"The Committee on the City Agency for the sale of liquors were instructed to settle with H. H. Hay, late Agent, and to remove any liquors of the city remaining unsold."

"May 31, 1855. The Board balloted for a City Agent for the sale of spirituous liquors; the whole number of ballots was six. John Chute had four votes, and was declared elected, and appointed. Wm. E. Morris and H. H. Hinkley had one each.

"The Board then elected Wm. E. Morris as Clerk of the City Agent.

"The salary of the City Agent for the sale of liquors was fixed at seven hundred dollars per year, and that of the Clerk was fixed at five hundred dollars per year, payable quarterly."

At the meeting of the Aldermen on the 3d of May, all the members were present but Alderman Ring. At the next meeting, May 17th, he was present, and then understood by the proceedings of that meeting that an agency had been established, but was not aware that a Committee had been appointed to purchase liquors, although the proceedings of the meeting of May 3d were read at that of the 17th: the fact of a Committee having been appointed, he testifies, escaped his attention.

At the meeting of May 31st, he held a conversation with the Mayor on the subject of the purchase of the liquors, with a view of obtaining information with regard to the legality of the purchase, and was serious, as he testified, in making that inquiry, although the conversation closed in a sportive vein.

Mr. Ring unfortunately left the meeting with the impression that Mr. Dow had purchased the liquors in his own name, but with the honest belief, at the same time, as he expressly states, that if he did so purchase them, it was for the City Agency, and without a design to violate the law, or expectation of any benefit to himself. The language of Mr. Ring's testimony was :

"When I left the meetng of the Aldermen, I carried away the impression that Mr. Dow had purchased the liquors on his own responsibility, but I honestly believed that he purchased them for the use of the City, and without any expectation of benefit to himself. I did not know that he was one of the Committee to make the purchase."

The impression that the Mayor had purchased the liquor in his own name, Mr. Ring communicated to the publishers of the *Argus* and *State of Maine*. This led to the publication of an imperfect and not a true version of the conversation which appeared in those papers on Saturday morning, June 2d.

Mr. Ring remarked to this Committee, that if he had known the facts as they actually existed with regard to the purchase of the liquor, his impressions on the subject would have been different; although he did not feel satisfied that the order gave the Committee authority to make the purchase.

The Mayor, on his part, supposing that Mr. Ring was familiar with the proceedings of the Board in regard to the establishment of the Agency and the appointment of the Committee, treated the matter jocosely, as a banter on the part of Mr. Ring.

The Committee can not but believe that the false impression conveyed by the published report of that conversation, was a primary cause of the complaint against Mr. Dow, the subsequent seizure of the liquor, and led to the disturbance of the evening.

The Committee appointed by the Board of Aldermen on May 3d, to establish the Agency, in pursuance of their authority, arranged and furnished the room in the basement of the City Hall, which had formerly been used for that purpose, and made it ready to receive the liquors. And believing it to be part of the arrangements of an agency, that it should be provided with liquors necessary for medicinal and mechanical purposes, on or about the 20th day of May, they entered into an agreement with the firm of J. Bramson & Co., of New York, to furnish the Agency with certain quantities of pure liquors, such as would be most suitable to the object for which the Agency was established.

Mr. Bramson, one of the firm, was in town on that day, and was introduced by Mr. W. C. Osborne to Alderman Carlton, one of the Committee, as a large dealer in pure and imported liquors, and a man to be relied upon. Mr. Carlton waited upon him to the Mayor's office, and an agreement was then and there entered into by these two members of the Committee, having the sanction of Alderman Brooks, the third member, on behalf of the City, with Mr. Bramson, to send to the Agency certain liquors according to a memorandum then furnished him, containing specifications of the kinds and quantity of liquors, to be warranted "pure," or no sale. The memorandum in writing given to Mr. Bramson contained instructions to have the liquors directed to the "Portland Agency, Portland, Me"

On the 31st day of May, the liquors arrived: all the packages were marked as instructed, accompanied by bills of lading, and an invoice of the goods, corresponding with the marks on the packages.

The bill of parcels accompanying the shipment was headed

"New York, 25th May, 1855.

Portland Agency, Portland, Me.,

Bought of John Bramson & Co.,
Importers of Brandies, Wines, and Havannah Segars,
No. 75 Broad Street, up stairs.

Terms—Note, at 6 months, or cash. discount."

Then followed a description of the liquors with the prices, amounting to $1618,93.

On their arrival, the liquors were immediately transported to the Agency, where they were deposited, and remained in charge of Mr. Chute, who had been appointed agent, where they were seized upon the warrant, as the property of Neal Dow, on the 2d of June. Neither the name of Mr. Dow, nor of any of the Committee, appeared upon the packages, the bills of lading, or the invoice.

Such being the facts relative to this branch of the case, the Committee have no hesitation in declaring their belief that the liquors were purchased according to law, and were legally deposited in the City Agency, and were the property of the City of Portland.

But if they were not legally purchased, they had been seized under a lawful process which was then pending, and were in custody of the law, in a building owned by the City. If, then, this liquor had been illegally purchased, that fact could afford no justification to a mob to assault the property of the City, and take the article by violence from the custody of the law. The crime in either case has no apology. The law should have been permitted o take its course; if the liquor was illegally purchased, the law would declare it forfeited, and it would have been destroyed under and by virtue of the law.

On the afternoon of June 2d, Royal Williams, Joshua Stevens, and Alvin S. Dyer, appeared before the Judge of the Police Court of the City of Portland, and in behalf of the State entered a complaint under their respective oaths,

"That they have reason to believe, and do believe, that on the first day of June, in said year, at said Portland, intoxicating liquors were and still are kept and deposited by Neal Dow, of Portland, in said county, in the middle cellar under the building commonly known as the City Hall, in said Portland; said Neal Dow not being authorized by law to sell said liquors within said Portland, and said liquors are intended for sale within said State, in violation of law.'

The reasons the complainants had for believing the facts to which they made solemn oath, we are not permitted to know. One of these allegations is, that they believed these liquors were *intended for sale in violation of law.* The Committee had hoped, in requesting their attendance before them as witnesses, to have learnt the causes and grounds of this belief.

The warrant thus demanded was duly issued and put into the hands of Deputy Marshal Ring. The complainants required and demanded, under much excitement, that it should be given to Constable Brady, who was in the room to receive it. This was refused, the Judge remarking that it must take the usual course.

This was between three and four o'clock, P. M. The Deputy Marshal did not seize the liquor until about an hour and a-half from the time of receiving the warrant.

On proceeding to the agency, he found the liquors there, marked "Portland Agency, Portland, Me."; not seeing Mr. Dow's name upon the packages, he had doubts about his right to seize them; he called for the invoice in the hands of the agent who was present, and found the bill to correspond with the marks. He then went out to consult the

Marshal and County Attorney, as to his duty, and afterwards returning with the Marshal, he seized the liquors upon his warrant between five and six o'clock, took an account of them, and left them in the cellar of the agency, as the most secure place.

As soon as the warrant was issued, persons began to assemble in groups about the City Hall, holding converse on the subject of the warrant and seizure; and expecting that the liquors would be taken and moved to some other place. Some inquired of the Deputy Marshal why he did not seize the liquors; others said, "the liquor must come out, and Dow must be treated like any body else." Considerable disappointment and excitement were manifested that the liquor was not removed, and at the tardy manner in which the process had been executed. Many persons had assembled there "to see the liquor spilt," as they expressed it, expecting that it would be taken out, and on its removal be destroyed.

Uriah H. Furlong met there in the afternoon three truckmen of his acquaintance, having their teams with them, who told him that they came there to haul away Dow's liquor; that Royal Williams and others had gone to get a warrant; and that Brady was to be the officer.

The plan seems to have been concerted that the warrant should be placed in Brady's hands, who would have taken the liquor from the cellar, and that it was probably doomed to destruction on its way.

Mr. Chandler Racklyffe, of Westbrook, came into town in the afternoon, and being attracted by the crowd around the Hall, inquired the cause. He was told in several quarters, that the object was to destroy Neal Dow's liquor, that it was under seizure, and that they were waiting for it to be

rolled out. Messrs. Joseph Johnson and Reuel Shaw, who keep stores in the neighborhood of the City Hall, repeatedly heard declarations late in the afternoon, from several persons, that the liquors would be taken out by violence. Alderman Brooks also states, that as he was going home to tea, he saw some persons talking together near the U. S. Hotel, and heard the remark, "that if Brady had got the warrant, the liquor would now have been destroyed," and one said, "now let us put it through."

The testimony of numerous witnesses concurs in this condition of things in the afternoon. The persons who assembled then around the Hall, were no doubt drawn there with the expectation that the liquor would be taken out of the Agency, under the warrant, and be destroyed. There was no riotous conduct at the time; but a strong feeling of impatience and irritation was manifested, that the liquor was not brought out, and an occasional expression escaped, that it should and would be taken out that night. Many witnesses testified to declarations of persons to that effect.

The groups generally dispersed about tea time; but there is good reason to believe, that a meeting for the evening at the same place, and for a more determined purpose, was concerted. Mr. Butler, one of the police officers, was coming from Cape Elizabeth on Saturday afternoon about 5 o'clock; and while on Portland bridge, three men met, and he heard one who was coming to the Portland side, say to the two others who were going over, "be sure and come over to the rum shop about 8 o'clock;" and the reply was, "we'll be there."

The same witness, on his way from his store, home to tea, about 6 o'clock, heard invitations repeated several times, by persons who met in the street, to be at the "rum shop,"

some said "City Agency, at 8 o'clock." On his return from tea, he saw at two different places, squads of people, among whom there was considerable excitement, and with some of whom he conversed. He heard declarations distinctly made, that they would have the liquor out that night; one man said he would be one to help get it out. Similar declarations were heard by other witnesses in different quarters of the city.

Mr. James E. Robinson stated that he heard a conversation in the latter part of the afternoon near the City-Hall on the subject of seizing the liquors; in which a number of persons used the expression, "we'll adjourn till 8 o'clock, and then we will have it out."

In the latter part of the afternoon, and early in the evening, communications were made to the Mayor and some of the Aldermen, and to the Marshal by some of the police, of these conversations and threats, and that serious apprehensions were entertained that an assault would be made in the evening upon the Agency with a view to destroy the liquors. The Marshal summoned the police and the watch to meet at his office.—The opinion prevailed among the police and some of the Aldermen, that the Agency would be assailed, and that there was a necessity that a force should be stationed there to protect the building, and preserve the property stored there. Alderman Brooks passing down after tea, between 7 and 8 o'clock, saw a crowd near the Agency, and demonstrations of a spirit of violence against the building; this he immediately communicated to the Mayor.

The Mayor and a portion of the Aldermen were at their room during the afternoon and evening, and fearing, from the information they had received, that a riot would take

place, they ordered the Marshal in the evening to repair to the Agency room with a portion of his police force, suitably armed, to protect the property there. The Marshal had previously procured a revolver, and in pursuance of these orders, he caused five or six members of the police to procure arms, and to take their stations with himself in the Agency room. At the same time, he ordered other police officers and a portion of the watch to remain outside the building to warn the crowd to desist from violence, to disperse, and go home, and to endeavor to preserve the peace.

The Mayor and Aldermen, apprehending from the large number of persons who were assembling around the City Hall, and the threats which had been uttered, that a force would be required larger than the regular police, took the precaution to notify the commanding officers of the Light Guards and the Rifle Guards, two military companies belonging to Portland, that a disturbance was apprehended, and requested them to assemble their companies at their respective armories.

A contract had been entered into in January last, between the City and these companies, by which in consideration of a certain sum of money, they voted to tender their services to the City "to aid its civil officers as an armed police force, in suppressing any riots or disturbances" within the City, whenever they should be called upon by the proper authorities.

The notice and request to these officers was conveyed verbally, to Capt. Green by Alderman Brooks, and to Capt. Roberts by another City officer, in which their services were requested as an armed police. It was so stated to them in express terms, in the verbal communication.

Gen. Fessenden, the City Solicitor, about this time, having been to the City Hall and seen the excitement there, waited upon the Mayor at the Government House. In his testimony before the Committee he says, "I felt it my duty to notify the government that the danger was urgent, and that something should be immediately done for the preservation of the property and peace of the City. I told them I thought the military ought to be called out. Mr. Dow replied that there was an agreement with the City, that they should turn out, when called for as an armed police, and that they had been, or that measures were taking to call them out."

Sheriff Baker was also sent for by the Mayor, and requested to repair to the City Hall, and use his best exertions to disperse the crowd and prevent a riot. In pursuance of which request, he did proceed to the City Hall, in company with the City Solicitor, and endeavored, during the remainder of the evening, to preserve the peace.

In view of the accumulated evidence of repeated communications made to the Mayor and Aldermen, in the afternoon and evening, of a growing excitement in the neighborhood of the City Hall; of the probability of a concerted assemblage there in the evening for unlawful purposes; of the threats from various quarters that the Agency room should be forced and the liquor destroyed; the Committee can not resist the conclusion, that the executive authority of the City would have proved false to its duty, had it not taken the most prompt and efficient measures to protect the public property, and to preserve the peace and welfare of the city. And they have seen no evidence that any preliminary measure was taken, which was not fully justified, nay, demanded, by the urgency of the case.

Having presented a summary of events which transpired, and of measures which were adopted, previous to the riotous proceedings of the evening, the Committee now approach the scene of excitement at the City Hall, and propose to submit a plain narrative of the principal occurrences, as they have appeared in the various, and in some instances contradictory statements, which have been considered by them.

Between 7 and 8 o'clock, persons began to assemble about the City Hall; they continued to increase until after 9 o'clock. In the first instance, there were many boys in the crowd, who were very noisy. As the multitude increased, the smaller boys disappeared, or were lost in the crowd. During the whole scene, there were present many young men from 15 to 20 years old, some of whom, we are sorry to say, were active participants in the riot; and in the early movement were most conspicuous.

The scene of active operations was on Congress St., in front of the Agency room, where persons engaged in the assault were chiefly assembled. On the sidewalks, was another class, composed of persons who went there from curiosity, or from sympathy in the movements of the rioters.

About 8 o'clock, policeman Butler, whose store adjoins that of the Agency, says he went to his door on Congress St., and thinks he saw a thousand men in sight from the head of Preble St., to the U. S. Hotel. John A. Poor, Esq., testifying to the state of things, as he saw them about 8 o'clock, as he passed into and out of the hotel, says:

"There was quite a gathering in front of the Agency door. As I came out of the hotel I heard a shout; the crowd then swayed off to-

wards Clapp's building ; a confused noise there ; I heard no stones thrown. A good many people were near the steps of the Hall ; quite a number on Middle street, many on Congress street side, more than on Middle street. I think there were more on the sidewalks than in the street. There was a large gathering of people on all sides of the City Hall : my impression is, that the shouts were from boys of fifteen to 20 years of age."

Lewis Dela testified that he went to the City Hall about 8 o'clock, "saw a large crowd in groups or masses, from Elm St., to Preble St., and some above, on the sidewalks and in the streets."

Uriah H. Furlong testified, that he was there soon after 8 o'clock, and found a large crowd assembled, very noisy and very threatening ; he was in among them ; he says, "a number spoke to me and said, 'they would have that rum that I hauled up for Neal Dow.'" Mr. Butler also testified, that as early as 8 o'clock, he heard some persons in the crowd repeatedly declare, that they would have the liquor out before midnight.

In regard to the large assemblage of persons around the City Hall at that early hour, the testimony is concurrent and uncontradicted ; and equally so, that it increased until half past nine o'clock. The number on the sidewalk and in the streets, being variously estimated at from 1000 to 3000 people. Curtis Meserve stated that he stood in a position where he had a good observation, and took some pains to estimate the number, and he came to the conclusion that there were present from 2400 to 3000 persons on Congress street and sidewalks between Preble and Elm streets, between 9 and 10 o'clock.

Soon after 8 o'clock, demonstrations of violence commenced against the door and window of the room in the

City Hall which had been established as the Agency for the sale of liquor, and in which the liquors purchased by the Committee were deposited. Mr. Dela, who was an attentive observer of the transactions during the principal scenes, described the early operations as follows :

"Soon after I arrived, a half moon circle was formed round the Agency door ; 40 or 50 men and boys were in that circle. Soon after, I heard stones thrown against the Agency ; a number of stones struck the door and wall ; there was not much excitement until glass was broken, when there was a shout and the excitement commenced Stones continued to be thrown, sometimes a volley, then an occasional one ; sometimes there was an interval of two to five minutes. One stone struck the sash, and I thought the whole sash was carried away ; there was a great shout then, and the crowd in front of the door was greatly augmented, especially on the outer edge of the circle."

Gen. Fessenden describes the scene about this time as follows : "There was a good deal of noise and a good deal of threatening language. The Hall was assailed by missiles which I took to be stone or brick, thrown with violence against the door and walls of the building, accompanied by shouts and threats, 'good,' 'give it to them," and the like. I heard the rattling of glass, and I thought I heard the door give way. The crowd seemed as far as I could judge increasing, and increasing in violence." He estimated the number of persons there at from 1200 to 1500.

Stevens Smith, another witness, who was in the midst of the assemblage, describes the above scene in the following words :

"I stood on the sidewalk between Butler' sdoor and the Agency door ; there was a large gathering in the square between the City Hall and the Deering Block ; much noise, swearing and complaining of Dow. Persons in the crowd were exciting the actors in front of the Agency, damning Dow, and swearing they would have out the liquor. They

formed a circle in front of the Agency door, the centre of which was 15 or 20 feet from the door. I saw boys 14 to 18 years old, bring up stones, hand them to the men, and the men threw them with violence against the building; as the stones rolled back, they were picked up and again thrown against the Agency. I heard the remark that they must stave in the door, as they must and would have the liquor."

These occurrences took place between 8 and 9 o'clock in the evening, and the statement we have made from two or three witnesses somewhat in detail, is confirmed in more general terms by witnesses who were on the sidewalks more remote from the immediate scene of action. The testimony is nearly unanimous, as to shouts, oaths, and imprecations, and throwing of stones, accompanied by threats of the destruction of the liquor. James E. Robinson testifies to hearing persons in the crowd say they could get into his store, which was adjoining the Agency room, get pick-axes and crow-bars, and then break into the agency; that the police would not dare to fire. But it is said by a few of the witnesses, a small minority of the whole, that much of the noise came from boys.—Josiah Spofford for instance says in his testimony, before the 2d Inquest, "Occasionally, I saw two or three boys, I should think from 12 to 15 years of age, rush out of the crowd and throw a few small stones, judging from the noise against the Agency door."

Mr. Ten Broeck looking from the 3d story of the U. S. Hotel upon the crowd, which he estimates at 1500 persons, says, before the firing, "it seemed to be boys' play." He also states that he heard what he supposed to be brick bats thrown against the Agency, and some shouts and some groans, not very loud shouts.

The Committee made particular inquiries on that point, and were satisfied that in the early stages of the

proceeding, there were many boys in the crowd, who were prominently noisy, so far as shouting constituted the noise. Afterwards, as the matter became serious, much the largest proportion of the active rioters consisted of full grown men, aided by young men of 15 to 20 years of age. To a direct question on that point, Sheriff Baker replied, "I did not see many boys in the crowd: if they were boys, they were boys of the size of men." Mr. Butler says of this period, "I do not think I saw a boy under the age of 15 or 16 in the midst of the crowd." The determined and persistent rioters occupying the front ranks around the Agency door, were men from 20 to 40 years old, moved by a determined spirit to get at the liquor.

During this period to the time of the fire alarm, the police and other persons were active among the crowd, endeavoring to persuade the people peaceably to separate and go home. In some instances they made arrests, and the persons so arrested, were, in every case with one or two exceptions, during the evening, violently rescued. Several persons not of the police, used exertions to induce the people to desist from violence. Mr. Dela testifies:

"I told persons in different parts of the crowd, several times, that Mr. Dow had purchased the liquors for the Agency, and the subject would be legally investigated, and they had better go home.

"As a justice of the peace I warned them to go home. They did not receive my warning kindly; they were bitter and said 'damn such stuff.' I think it was the determination of the crowd to force the Agency and get the liquor."

The number of policemen stationed in the Agency room did not exceed ten, including the Marshal, whose orders to his men were to protect the property, and prevent any one forcibly entering. They had among

them 5 or 6 pistols, part of them revolvers. The whole number of police on duty that evening was 32 or 33.

The police on the outside of the building, at the time we are speaking of, were active in the discharge of their duty. Mr. Butler, going out of his door with his badge on, was seen by the crowd; they immediately cried out, "Go in, damn you, and mind your business." He says he spoke to them, and requested them to leave the door and disperse; immediately a stone was thrown by an Irish boy about 15 years old, and struck the stile of the door over his head. He gathered up more stones, and handed them to the men about him. Mr. Butler then arrested the boy and carried him out of the crowd, and as he was moving off several men shouted, "Knock him down, damn him, kill him." A rush was made upon him, one struck him with his fist, another with a stone, and the boy who had been arrested was forcibly rescued. Soon after another rioter was arrested by a police officer, and rescued in the same violent manner.

Mr. Butler also states that having received orders from the Mayor and Aldermen, and also from the Marshal, he went among the crowd constantly warning them to disperse, and that if they continued their assaults they would certainly be fired upon. Police officers Covell, Pettengill, and others, were also among the crowd, giving similar notice, and warning in a loud voice. Covell arrested a man who had violently attacked the door of the Agency, who was forcibly rescued, amidst cries of "kill him, kill him," and he himself was knocked down and wounded. Mr. Hardenbrook, an intelligent witness, who was moving among the crowd, venturing an occasional remonstrance against their proceedings, saw two police officers arrest a man who had

thrown a large stone against the Agency door; he also was forcibly rescued. Mr. Hardenbrook also testified to seeing a person distributing drink before 9 o'clock, and heard him say, "I can get rum enough for you, boys." The vessel the liquor was in was dashed against the Agency building.

Dr. H. L. Davis, and Mr. Pickard testified to seeing policemen, or persons they supposed to be such, among the crowd endeavoring to persuade them to disperse, and heard them say to the people they would get themselves into trouble if they did not. Dr. Davis says, that at this time there was considerable excitement, and sounds like rocks going against the Agency building, and then a hurra. He says, "I think there were in front of the Agency door 400 or 500 people, some men, some boys, mostly men."

Before closing this part of the narrative, we will refer to the testimony of Sheriff Baker. Between 8 and 9 o'clock he was sent for by the Mayor; and requested to proceed to the City Hall and use his influence and official authority to quell the riot and disperse the crowd. He consulted the City Solicitor as to his duty and proceeded to the scene of the tumult about 9 o'clock. He says he found it difficult to cross over from the Deering block to the Hall steps on account of the crowd. The gathering was tumultuous, heard stones thrown forcibly againt the Agency, profanity, and threats. A rush was made by the crowd in the street to the Agency door, and at the same time many stones were thrown against it. He adds, "I stood near the steps of the Hall, and spoke in a loud voice to the assemblage and ordered them, in the name of the State of Maine, to disperse and go home." The order was

received with boisterous language, profanity and shouts of "out with him." He says "before I gave the order to disperse I heard the rattle of breaking glass, the crash of blinds or something like it, and a great noise." He thought he saw some one leading the crowd on, and heard what he thought was the word of command of a leader. The crowd appeared exasperated, took no heed of his command, and seemed determined to enter the Agency.

Such was the state of affairs at the City Hall, at the time the bells rang for fire, at about quarter past 9 o'clock, viz.:

A series of repeated and violent attacks had been made upon the Agency apartment with heavy missiles:

Threats had been freely and loudly uttered, accompanied with oaths and imprecations, that the Agency room should be broken open, and the liquors destroyed:

The civil officers had attempted to make arrests of rioters, and had been violently resisted, and themselves put in peril:

The city officers had by peaceful efforts earnestly endeavored to prevent violence, and had by their own efforts and the Sheriff of the county, publicly, openly and repeatedly ordered the crowd to disperse. But all in vain.

The ringing of the fire bells, and the coming in of the fire companies and the engines, produced for a short time a diversion of the rioters from the apparent object of their coming together. The crowd was increased by the occasion; but as these companies drew off, the number of active agents in the riot and the numerous spectators on the sidewalks, remained undiminished.

The attempt to throw suspicion upon the Mayor for causing this false alarm to be given, seems to be wholly without foundation.

It appears in recent testimony that the order to ring the fire bells was given by Alonzo Butler, one of the policemen, without authority or the knowledge of the Mayor or any of the Aldermen. His object in giving the alarm, was, as he states, the hope that it would draw off the crowd, or, failing in that, that it would rally the friends of order to the defense of the city property.

While the engines were on the ground, the torches of one of them were lighted up: this displeased the crowd, and the company was loudly called upon to put them out. They had previously ordered the lights in Butler's store to be extinguished, and they afterwards shut off the gas lights at the west end of the City Hall. It may reasonably be inferred that the object of these movements was to throw obscurity over the scene, that the actors in it might the more easily escape observation.

After the fire companies withdrew with their apparatus, which was a little after 9 1-2 o'clock, the tumult increased, and the demonstrations against the Agency became more determined. What had been timidly begun, was now ferociously prosecuted, as if the recent lull had given increased force to the excitement. It seemed as if the impunity with which their former assaults had been received, had given fresh courage and ardor to the assailants. Leaders now came forward, and directed and encouraged the energy of the mob; and there can be no doubt that there was at this time, a more resolute determination to force the Agency door and destroy the liquor.

Alderman Ring, who was aroused from his bed by the alarm of fire, proceeded to the City Hall. He thought at first it was a trifling affair, and boys' play, although he heard glass broken, and saw two hundred or three hundred

persons in front of the Agency door in the street: says at last, "I believed it to be the object of the crowd to break into the Agency and destroy the liquor." "I do not think," he says, "that they originally assembled there for that purpose, although some may have come, with the hope at least, and perhaps with the intention of having the liquor destroyed." He adds "during the whole time I was there from 9 1-2 to after 11 o'clock, there was a continual shouting, yelling, and throwing of stones, with an interval of a few minutes while the military went away."

How any reasonable or unprejudiced man could come to any other conclusion than that of Alderman Ring, "that the object of the crowd was to destroy the liquor," we cannot conceive.

After this course of proceeding had continued some time, Daniel Brown, a policeman, who stood near the Agency door, says he heard one man say, "we must accomplish our object if it takes all night—the liquor we will have." Another, who was very active, called the crowd cowards, and said, "there was no use in their staying there all night." He says, "I cautioned them as I had others several times during the evening of their danger, and warned them if they persisted, they would certainly be fired on by the police; for they were armed, and would at all hazards defend the building." They replied, "Go to hell, you are one of Neal Dow's pimps." "Damn the police, they are of no account, only a baker's dozen, pass him out," and a number took hold of him.

Joseph Batchelder also testifies that he heard one man say, "he'd be damned if he went away, till the liquor was out."

About this time, a few minutes after 10 o'clock, the Light Guards, Capt. Green, came down from their armory,

consisting of about 24 men, and formed on the sidewalk on Congress street, in front of the Agency door. They were preceeded by Sheriff Baker, the Mayor, and Aldermen Brooks and Carleton. The Sheriff, before the company formed, stood on the sidewalk near the steps of the Hall, and in a loud voice, in the name of the State of Maine, commanded the crowd immediately and peaceably to disperse. The Sheriff testified that he spoke in a voice loud enough to be heard over the Square; the gathering he says was very large, and the appearance of the crowd very boisterous, receiving his order with loud noises, jeers and hisses.

The company then formed as above described, on which the crowd retreated from the sidewalk to the street. Mayor Dow then spoke in a loud voice, and commanded the crowd to disperse, or they would be fired upon. This order was received with shouts, hisses, boisterous and profane language, and a renewed discharge of missiles against the building and the soldiers. This scene is proved by the testimony of numerous witnesses, Mr. Carleton, who then stood by the Mayor, the Sheriff, and others. Mr. Dela says:

"I crossed over and spoke to the Mayor, and took my place by his side. Before I reached the spot, the Mayors poke loudly and gave orders to the crowd to disperse, and added, that if they did not disperse, they would be fired upon. His voice was drowned by noises and hisses as before. I heard Capt. Green say, "one of my men has been struck down by a brick," at the same moment a bottle struck the bayonet of a soldier standing next to Mr. Dow, was shattered and fell on the sidewalk."

The missiles continued to fly thick and fast, amidst shouts and imprecations. Captain Green then said to the Mayor, "you must do something, as my men are falling;" two men had just then fell hit by stones. Sev-

eral others were wounded. Mr. Dow said, "we will neglect it no longer, get your company ready." He then gave the word to Capt. Green to fire, and immediately repeated an order, "by sections fire." The company paid no attention to this order, expecting one from their Captain. Capt. Green then gave the word, "second platoon, ready," he hesitated before giving another order, and turning to the Mayor, said, "must I fire, it is hard to shoot our own citizens." The Mayor replied, "wait a minute." Capt. Green had been unwilling to go before the mob with so small a force; he had expected to meet another company there. Mr. Dow informed him that another company was coming, and asked Capt. Green if he would go and meet them; he assented, and they marched off, but 8 or 10 of his men following; the remainder, some wounded, and others discouraged, had retreated to their Armory.

There was evidently very great reluctance to resort to the use of arms, even in the emergency, and it was confidently believed and hoped by the Mayor, and Alderman Brooks and Carleton, that the mere display of the military force would have the effect to deter the crowd from further acts of violence, and induce them quietly to disperse.

Immediately on the departure of the Light Guards, the tumult increased; we will describe the scene which followed, in the language of Mr. Dela:

"As soon as the company went off, the crowd became more violent; they seemed to feel encouraged by their leaving. I was standing at or near the same place that I was when the Mayor was there. Very large stones were thrown at and through the door: when a stone was thrown at the door which took effect, a loud shout was sent up from the crowd in the street, in which some persons on the sidewalk participated. It was in that crowd about the door, and at this time, that I first saw the person who was afterwards pointed out to me as John Robbins. I saw him pass on the inner edge of the crowd, around the Agency door. The first remark of his which called my attention was,

"Boys, will you close up round me?" He went up to the Agency door, turned his back to it, and kicked violently against it; another man who had thrown a stone violently against it, then marched up and shook it."

He says, Robbins was then led out of the crowd, by a person who whispered to him and seemed to be his friend. Mr. Dela says, he afterwards saw the same man, described as Robbins, in the crowd. Saw him when he was shot at which time he was standing close to the steps of the Agency door, and either had hold of it or was reaching toward it. He had never known Robbins or seen him before, but when he was led out of the crowd he had the curiosity to follow him, and then inquired of a stranger who it was, and was informed it was "Jack Robbins."

Stevens Smith testified to seeing several persons at this time making a spirited assault on the building; he says, they rushed forward with large stones, and hurled them against the door, and as they rolled back they picked them up and again hurled them in the same manner; at the same time inciting the crowd to rush on, saying the police were cowards and dare not fire.

They now brought forward a pork barrel, or something resembling it, and beat it heavily against the door; some one proposed getting a plank or piece of joist as more effectual. Several persons testified to their seeing a long piece of plank carried from Elm St., across. Joseph Batchelder says he was standing on the corner of Elm St., and saw a young man from 20 to 25 years old seize a large piece of plank, and cried out, "Jesus God, now we'll give it to 'em," and rushed over to the Agency with it.

Mr. Stephenson, cashier of the Atlantic Bank, says, after the Light Guard left:

"I saw a person who appeared to be a leader and had been furious against the door, pass me very fast down Elm St.; I watched him

he picked up what I supposed to be a heavy plank; he was a powerful man as I judged, as he carried the plank very fast by me toward the Agency, and shortly I heard a battering against the door and cries, 'now we'll do it.' I heard distinctly, orders given, which I supposed to come from the Agency, to the assailants to keep off; I heard one voice louder than before, calling to the crowd to come on, as the police were cowards, and dare not fire; a shower of stones then followed."

One man near the door about this time shouted to the crowd, "If you will follow me, I will go into the building." A good many persons responded, "go ahead, we'll back you up."

Mr. Dela, who had left the place where he had stood for a few minutes, now returned, and saw some men with a piece of plank, and at that instant heard a blow upon the door, which was different from anything he had heard before, and seemed to start the door from its hinges.

Mr. Batchelder also states that as soon as he saw the plank carried across the street, he heard a beating against the door, and immediately saw the flash of pistols in the Agency room.

The assault by the barrel, or the plank, had succeeded in making a breach in the door; the upper, or sash part, having been previously broken in. Encouraged by this success, and the shouts of the leaders, the crowd had now gathered close around the door. The two principal leaders incited the crowd to press on. The evidence is almost irresistible, that one of these was Robbins; it was his voice that called upon the crowd to rush on; it was he who advanced and kicked with violence against the door; it was he whose arm was thrust in and removed the fastenings from the door, and exclaimed "the way is clear." It was at this crisis when the police believed the time for the last argument had come, that they commenced firing.

It is in evidence that about the time the firing from the Agency commenced, one or more pistol shots were fired from the crowd into the Agency room. James R. Gray, a respectable witness, who was in the room, testified that after the police had begun to fire, he saw a man come up to the Agency door, on Congress street, and discharge a pistol through the door; he saw the flash, heard the report, and the crash, as of a ball striking a barrel which stood near him. He examined the barrel next morning, and found a bullet hole through it, which he had no doubt was made by that shot; the pistol appeared to be of large size. John S. Libby testified, that at the time the firing in the Agency commenced, he saw a man come hastily round the northerly corner of the City Hall, and when within about ten feet of the Agency door, he saw him discharge a pistol into the Agency room. James H. Shackford testified that he was standing on the balcony of the U. S. Hotel, while they were firing from the Agency, and saw distinctly two flashes of pistols in the crowd towards the Agency door, and believe them to have been pistol shots fired by persons in the crowd.

Reuel Shaw and Robert McAlmon also saw the flash of a pistol from the crowd. Alvin Leighton states, "I heard the report of three or four pistols fired from the crowd on Congress street, between the City Agency and the Clapp block. They appeared by the flashes to have been fired ten or twelve feet from the door of the Agency." Samuel S. Felt says, that having stated in the hearing of some of the crowd that he would expose every one that he knew who threw stones, or participated in the mob, he was assailed by several persons, who called him a damned pimp, and one drawing a pistol from his pocket and holding it

near his face, said with an oath that "he would take care of me." "I saw," he says, "the pistol distinctly."

These statements are confirmed by the testimony of other credible witnesses, who spoke of seeing flashes of pistols in the crowd and hearing reports. Some saw flashes but did not hear reports.

In addition to these facts, there were exhibited to the Committee about two bushels of stones and brickbats, of various sizes, which were gathered in the Agency room on the morning after the attack, one of which weighed twenty-five pounds; many others were of large size. These are dead but speaking witnesses, of the fury of the assailants.

The pork barrel and the piece of plank were found on the side walk the next morning.

We will now advert to the position of the protective force within the Agency. The whole number of persons in the Agency room during the evening, until the Rifle Guards entered, did not exceed ten men, including the Marshal and his Deputy Ring. They were ordered by the Mayor, and by two at least of the Aldermen, to protect the property of the city at all hazards. They manfully and patiently stood their ground three hours, during the mingled assaults and abuse of the rioters, from eight to eleven o'clock. They continually cautioned the rioters about the door, to desist from any attempts to enter it, assuring them they were armed and should fire upon any one who made such attempt. These repeated warnings were received in language like the following: "Fire and be damned," "you are a pack of damned cowards, and dare not fire." The leader, who had rallied his followers, and who had reached in to withdraw the bar from the door, through the breach they had made, and who is supposed to have been Robbins, cried out, "Now make a rush, now is the time, cut their damned harslets out." The Marshal standing near the door, commanded him to "leave that door in a moment, or he would be shot;" still persisting to raise the bar, both the Marshal and Deputy Marshal fired their pistols, purposely elevating them, so as not to hit any one, in the hope of deterring them from any further attempts upon the door. This, instead of producing the desired effect, only exasperated the crowd the more; the leader then shouted, "blank cartridges, God damn them, rush forward, the way is clear." He had now removed the fastenings from the door, he appeared to have the bar in his hand, and was pressing forward, The Marshal and other members of the police, believing from the exasperated condition of the rioters, some of whom seemed to be intoxicated, and their threatening language, that not only the property of the City, but their own lives, were in imminent peril, renewed their fire directly through the doorway. There were but five or six of the police who were armed, and they discharged three or four volleys near together. The second and third shots did execution, for the cry was successively raised, "a man is shot," "a man is killed," "he is dead."

The tumult was hushed a little, and then a renewed attack was made; the police continuing their fire, as attempts were made to enter the door, until the Rifle Guards appeared, expecting every moment, as they testified, that they would have been overpowered by the superior force of their assailants. And there is good reason to believe that their apprehensions were not without foundation.

The Marshal, Deputy Marshal, and other members of the police have testified that they were under constant fear of serious injury to themselves from the missiles that

entered the room, and of the loss of life if they had been overcome. Several were wounded. The subordinates state that they were ordered by the Marshal to reserve their fire, and to use their pistols only in the event that any of the crowd should enter the door. This order they obeyed, and it was only when the danger became imminent, that they resorted to their arms. This is confirmed by the unimpeachable testimony of persons nearest the scene, and who preceived the critical condition of affairs.

It is the opinion of the Committee, that the mob had arrived at a point next to the acoomplishment of their object, and had it not been for the use of their fire arms, at the very moment the police applied them, the Agency would have been forced; the lives of its defenders put in great jeopardy; the liquors have been destroyed or partly used to inflame the passions of the rioters; and then, the extent to the injury of life and property, in our fair city, no mortal can conjecture.

The timely firing of the police, and the fortunate accession of the Rifle Guards, when the police force was nearly exhausted, and could not much longer have maintained their position, most happily averted a calamity, which would probably have shrouded our city in wo, and which it shocks human sensibility to contemplate. The death of one man, and he a leader in the riotous assault, no doubt saved the lives of many innocent persons, the sacrifice of much valuable property, and the prostration of law and order before the wild passions of an imbruted mob.

That the police were entirely justifiable in using their arms at the moment they did, the Committee entertain no

doubt; nor have they any doubt that Robbins was killed by a shot from the police, before the appearance of the Rifle Guards. The weight of testimony strongly preponderates in that direction. It was he who was in the front rank of the assailants; he is the person who was actually entering the door; he was seen to fall by Rich from the window over the Agency door before the Rifle Guards went down; the cries of "a man is shot," "he is dead," were heard inside and out of the Agency, before the Rifle Guards entered the room; and this cry was raised when Robbins was borne off, and from the fact that the voice of the leader was not heard after the second or third fire of the police. The Marshal states it as his belief that he was killed the second or third fire; and that a man apparently dead, was carried off, during the firing of the police, was attested by numerous witnesses.

James M. Jewett states that he was standing within 15 feet of the man when he was shot, and knows that it was at the third fire of the pistols from the Agency, and before the Rifle Guards came down. He saw the body carried to the lamp post on the corner of Elm street, and then down Congress street.

These circumstances would scarcely leave any doubt of the fact were they unaccompanied by others more direct and positive. We will now proceed to state other facts which would seem to remove all doubt from an unbiased mind.

The military did not commence firing until 11 o'clock. John S. Libby states that he saw the Rifle Guards when they went down; before that, he saw the flash of pistols in the Agency, and them an whom he believed to be Robbins, raised his hand, groaned out something and lurched over. He says, "I heard the words 'he's shot,' and a

portion of the crowd took him off." Mr. Libby was one of the watch, and was constantly among the crowd; and is confident that the man who was thus carried off was the same who had been encouraging the crowd to rush to the Agency door.

Andrew J. Rich testifies, that looking from a window over the Agency door, he saw the man who had been active in the riot, fall by a shot from the Agency; heard the cry "a man shot," and saw him carried across the street, to the gas light on the corner of Elm street. He then left the window, stopped a minute at the armory, and saw the Mayor and the Rifle Guards there, not having then been down; he then went home, and as he was going down the stairs of the Hall, he looked at his watch, and found the time to be 11 minutes to 11 o'clock.

Wm. Ferris testified that as he entered his house on the corner of Lime and Federal streets, from the City Hall, he heard the clock strike 11; in two minutes after that, he stepped out and saw persons carrying Robbins to the Elm House; he followed them in and saw him dead. Dr. Wm. Young states that Robbins after he was shot, was carried first to Dr. Clark's, then to Dr. Lord's office, both on Congress street, then further down the same street to Dr. Dodge's house; not finding the surgeons, the body was taken to the Elm House. Dr. Clay, who boarded at the Elm House, testifies that as he was about going to his room for the night, he looked at the hotel clock and found it to be 7 minutes to 11 o'clock; he is sure it was as much as five and he thinks seven minutes, before 11; just at that moment, he was informed that a wounded man was at the door; they brought him in; it proved to be Robbins, and that he was dead. He was taken across

the street to his office, and he is sure he was there by 11 o'clock.

James Crawford, one of the witnesses examined before the 2d Inquest, stated that Robbins was killed between 10 1-2 and 11 o'clock—that it was not quite 11 o'clock when the body reached Dr. Clay's office. He assisted in taking it there.

The Marshal testifies that after the firing of the Guards was over, which he says did not occupy *three minutes*, the gas was lighted in the room and the Mayor looked at his watch, and found it to be 5 or 6 minutes after 11 o'clock, he does not remember which; the Mayor confirms this statement with the addition that it was just 6 minutes after 11, and that his watch was regulated by Lowell & Senter's time.

The testimony of another witness is so direct on this point, that we present the statement in detail.

James R. Gray testified, that being in the Agency room in the early part of the evening, Marshal Barrows requested him to remain and assist in protecting the property. He says:

"On the second firing of the police, I saw the man whose arm was in the door endeavoring to unfasten it, fall from the door, and heard him say 'I'm shot,' or something like that, the same man had been rallying the crowd 15 minutes, and the Marshal had repeatedly cautioned him, that if he entered the door the police would fire. As he was lifting the bar, the Marshal again forbid his entering, and he replied, and they were the last words he uttered before he was shot, 'I'll either go through that door or go to hell;' in less than half a minute he was shot. I was within ten feet of him; this was the leader who had been inciting the crowd."

He then further stated, that having been wounded in the forehead by a stone which drew blood, and knocked his hat off, he went out of the Middle street door without

a hat, to go home. The Rifle Guards had not then come in. He then says:

"I went down Congress street, very quick, running most of the way. As I got to the head of Exchange street, opposite the Court House, I saw eight or ten men carrying the body of a man down Exchange street; they had just turned the corner into that street. I went toward them and saw the head of the man they were carrying, hanging down; he was apparently dead. I asked Daniel Gill who it was; he said that it was a man who had been shot. Just as I saw this procession I heard the discharge of musketry at the City Hall."

Daniel Gill confirms this statement in regard to the body. He says:

"I went to the City Hall about 9 o'clock, and remained there till Robbins was shot. I heard the cry, 'A man is killed.' I saw him taken by a number of men, and carried down Congress Street. I followed him to Dr. Lord's office; his office was shut; I said to those who carried him, take him to the light in front of the City Government House. They took him to the light, and I put my hand on his face; I recognized him as John Robbins for he had been to my place of business. I remarked that the man was dead, as his flesh was cold, that it was no use to carry him farther. They carried him down Exchange Street. I stopped on the sidewalk, perhaps five minutes, talking with gentlemen. James R. Gray was there and spoke to me. I afterwards heard the firing of the musketry. I knew it to be musketry, for it was much louder than the pistol firing. I went to the store above Dr. Lord's office, where I had left my wife, and as we started to go home, I heard the clock strike eleven." He says, "we went directly home, and on entering the house looked at the clock, it was from five to ten minutes past eleven o'clock. I am positive it was not over ten minutes past eleven."

Dr. Clark, at whose house the persons bearing the body of Robbins are proved to have called, on their way from the City Hall, states, that during the firing, two calls were made at his house after he was in bed, the bell was rung violently both times by a number of person, and within 5 to 7 minutes of each other, the last he knew from some

circumstances which transpired, to have been from 10 to 15 minutes before 11 o'clock; no other call was made after that. He afterwards heard the clock of the Stone Church, which is next to his house, strike 11. He recollects a distinction between the firing; the first, which he supposed to be pistols, was scattering; the last seemed to be platoon firing, more heavy and together—this latter firing seemed to be by platoons in rapid succession, three or four discharges, all in two or three minutes.

This confirms facts before stated, and taken in connection with the evidence that the persons bearing Robbins stopped at Dr. Clark's door, prove conclusively that Robbins was shot, at least a quarter of an hour before 11 o'clock.

If this testimony, which is minute and concurrent as to the time, and the identity of the person killed, is to be believed, and we see no reason to doubt it, it exhibits, from various and disconnected sources, a series of facts, which must carry the conviction that Robbins was killed by a shot fired by some of the police, before the fire of the military commenced. He was certainly shot some minutes before 11 o'clock, the military did not fire until 11 o'clock, nor until the dead body of Robbins had been taken away from the City Hall, and was lying in Dr. Clay's office.

It is not to be denied that there is some testimony at variance with this conclusion, but it is rather a matter of opinion than a statement of facts. Some formed their judgment from a comparison of the reports of the different kind of fire arms. But to those standing quite near, the reverberation of the sound in a close room must have rendered it difficult to distinguish the kind of pieces used, while those at a distance would have a better opportuni-

ty to discriminate—others were no doubt misled in the confusion, by several persons having been carried off wounded. Mr. Dela spoke more positively than any one else, as to Robbins having been shot by the military. But he was standing on Congress St. side of the building, and did not know when the military entered the building, and judged from the report of the arms. Again it may be said that not having known Robbins before, he may have been mistaken in the person who was actually killed, as he did not follow him to make sure of the fact, and he saw several carried off. In one respect Mr. Dela agrees with several of the police officers and other witnesses. He said "when my back was turned on the Agency, there was a discharge of musketry from the Agency, I turned about and went back as near as I could to the place where I first stood, there was a shout from the crowd, 'blank cartridges, God damn them.' I immediately heard another discharge of musketry from the Agency, and saw by the flash John Robbins fall from the door."

It will be perceived that Mr. Dela makes the fall of Robbins follow the cry of "blank cartridges;" all the other witnesses connect this shout with the first ineffectual fire of the police, who purposely fired over the heads of the rioters. Mr. Dela must therefore have mistaken the fire of the police for that of the military.

Josiah Spofford testified that the firing of the musketry continued 15 or 20 minutes. He was outside of the building, mingling in the crowd. The Marshal and other witnesses in the room, when the firing commenced and ended, are positive that the whole firing of the military did not exceed five minutes, the Marshal says not three minutes. The sections, four in each, marched up in quick succession, fired, and fell back. At that time, the crowd

which had been in front of the door, had fallen back on each side, leaving a clear passage from the Agency door across the street. They still however, according to the testimony of Capt. Roberts, continued to throw stones into the Agency in every direction, hitting several of his men. We are persuaded therefore, that Mr. Spofford as well as Mr. Dela blended the firing of the police with that of the military—the firing of the police having continued at least 20 minutes, and up to the time the Rifle Guards entered the room.

Another reason given that the deceased was killed by a musket ball was the size and appearance of the wound, which led Dr. Lord, and also Dr. Young to the opinion, that the death was caused by a musket ball. It must here be remarked that these surgeons did not examine the wound minutely until several days after death. The Committee believe that no certainty can be attained in a case like the present whether the wound was inflicted by a pistol or a musket ball; the difference in the size of the ball would not be determined by the appearance of the wound. Such they also understand is the opinion of surgeons skilled in those subjects. Ira Stillson, who examined the wound on the day after the death, and compared it with one inflicted by a *pistol* shot upon a young man some time before, which caused death, says that the wound on Robbins was *smaller* than the other; he tested them both by his finger. It is said by surgeons that persons practically unacquainted with shot wounds, cannot determine with any certainty whether a wound is caused by a pistol or a musket ball. It must be conjecture, nothing more.

The idea advanced by some, that this riot was the work of *boys*, is preposterous, and can only exist in the imagi-

nation of those who seek a justification of their conduct, or an argument to support a preconceived opinion. A mob brought together on an issue in which boys would naturally take no interest; which was evidently projected beforehand, and so systematically and pertinaciously conducted, for an openly avowed and unlawful object, was the design and work of men, and not of boys. That the active rioters found sympathy and encouragement in many bystanders of respectable position in society, who ardently desired to see the liquors destroyed, but did not dare to commit overt acts, was made apparent by scenes of the evening, and by declarations before and after. This is one of the saddest phases in this lamentable tragedy, and must have a tendency to weaken confidence in our republican institutions; when respectable persons, on any pretense, will stand by and see the majesty of the law trampled upon by lawless and unprincipled men, without raising their hands or their voices in its defense. What security shall we have in our institutions, when the people, the essential sovereigns, and people of property and standing too, lose that salutary veneration for the laws, which is their chief safeguard?

We now come to consider the expediency and legality of the city authorities, in protecting the property of the city, and invoking the military companies to aid the police.

The Mayor and Aldermen were early informed on Saturday afternoon, June 2d, of the issue of a warrant for the seizure of the liquors recently purchased in New York, and for the arrest of Mayor Dow. A meeting of the Board of Aldermen was held on the same afternoon, at which the bond of Mr. Chute, who had been previously chosen City Agent for the sale of liquors, was approved,

and also Bramson & Co's invoice of liquors, purchased by the Committee. After the meeting, the Mayor and some of the Aldermen remained at the government house until tea time, and returned there again after tea.

Numerous and accredited reports were made at the Mayor's office the latter part of the afternoon, and early in the evening, that groups of excited persons were gathering about the City Hall, that appointments for a meeting at the same place in the evening, had been made, and threats uttered that the liquor in the Agency should be destroyed.

This information, coming from the police, some of the Aldermen, and other respectable sources, could not be disregarded. The whole police force of the City, including the watchmen, did not exceed 32 or 33 in number; a force totally inadequate to meet a desperate emergency. The Mayor instructed the chief of police to station a portion of his force in the Agency Room, armed, and to protect the public property at all hazards; and to post another portion outside of the building, to preserve the peace, and to arrest rioters.

From information received by the Mayor after tea, of the multitude and temper of persons assembled about the City Hall, he was persuaded that the regular police force would not be sufficient to resist a powerful and determined attack upon the building, which he had reason to believe was contemplated. He therefore consulted with the several Aldermen who were present, and afterwards with the City Solicitor, and came to the conclusion that to preserve the peace and good order of the city, and to protect the public property, would require the use of a larger force, than the usual police of the city, however faithful and efficient they might prove.

A written agreement had been entered into in January last, between the city and two of the military companies, viz:—the Light Guards and the Rifle Guards, by which for a certain compensation, they had severally covenanted to render their services to the city as an *armed police*, for the suppression of riots, when they should be required. The words of that agreement are as follows:—we quote from the one in possession of the Rifle Guards.

"At a regular meeting, duly notified, of the Portland Rifle Guards, held at their Armory, January 9, 1855; it was unanimously Voted, That upon condition, that the city government pay to this company one hundred and three dollars, agreeably to the action of the city government, the services of this company be tendered to said city, to aid its civil officers as an armed police force, in suppresing any riots or disturbances, which may occur within said city, whenever they may be called by the proper authorities, upon condition aforesaid."

The condition has been complied with, and the money paid to each company as stipulated in the vote.

Between 7 and 8 o'clock, the aspect of affairs at the City Hall became more threatening; the Mayor had requested Alderman Brooks to call upon Capt. Green, of the Light Guards, and desire him to have his men assembled at their armory at 8 o'clock, to aid the police, as a riotous assembly was apprehended. Capt. Green replied that he was tired, and did not wish to go down unless he was wanted. He did not then go down to the armory, but sent a young man to ascertain whether there was any necessity for his going out. Between 8 and 9 o'clock, circumstances had become more urgent; communications were made to the Mayor by the police, that the riot was becoming alarming; that persons who had been arrested had been rescued; that stones had been thrown violently against the building, and there was

reason to believe that a strenuous attempt would be made to enter the building, and destroy the liquor. Alderman Brooks was again sent to Capt. Green to hurry him along; and a messenger was despatched, on the earnest recommendation of Alderman Carleton of its necessity, to Capt. Roberts of the Rifle Guards, to have his company at their armory by 9 o'clock, as an armed police. Both Captains declined calling their companies out, without a written requisition from the Mayor. The Mayor, believing that no time was to be lost, as the facts before narrated have sufficiently shown, proceeded at once to draw orders to the two commanders, of similar import, of which the following to Captain Green is a copy:

"STATE OF MAINE.

COUNTY OF CUMBERLAND, SS. }
City of Portland. }

To Capt. Charles H. Green, Commanding Officer of the Portland Light Guards:—

Whereas, it has been made to appear to our Mayor of our City of Portland, that a tumultuous assemblage is gathered at or near the City Hall, threatening destruction of property, and that military force is necessary to aid the civil authorities in suppressing the same; now therefore I command you that you cause fifty men of your company, armed and equipped, and with ammunition as the law directs, and with proper officials detailed by you, to meet at the armory, in the military hall, at 9 o'clock, and then and there to obey such orders as may be given according to law.

Hereof fail not at your peril: and have you there this precept with your doings thereon returned.

Witness, Neal Dow, on the second day of June, in the year one thousand eight hundred and fifty-five.

NEAL DOW, Mayor." [L.S.]

The respective captains then proceeded to notify as many of their men as they could conveniently reach, to assemble at their armories. Capt. Roberts thus

speaks of the first or verbal message sent to him: "Some individual, I do not know who it was, informed me that there was an order at my Armory, from the Mayor, requesting the services of myself and my company to act as an armed police force, should the occasion require." Alderman Brooks testifies that he made the request in similar terms to Capt. Green.

It is evident, then, that the city authorities, in calling out these companies, did it as a matter of precaution, and to aid the police, and not simply as a military force. Capt. Roberts so considered it, for he says, that in ordering out his men, he considered that he was complying with his contract with the city, to afford them an armed police when called for.

Capt. Green took a different view of it, and although he had a similar contract with the city as the other company, he says, "I considered that I was ordered out as a military company, under the laws of the State."

However he might have considered the authority of the order, the city authorities called the companies out under that contract, as was stated in the first communication made to them.

In fact, the Mayor had no military power; his order, if viewed in that light, had no authority whatever, and the companies were not bound to obey it; it was simply nugatory. But they did come out at the request of the Mayor, who, with any one of the Aldermen, had a right by law to "require the aid of a suffient number of persons, in arms or otherwise," and when they appear in pursuance of such requirement, they are authorized, by express statute, which is in affirmance of the common law, to "proceed in such manner as they may judge expedient to suppress such riotous or tu-

multuous assembly, and to arrest and secure the persons composing the same."

These companies were present; by their contract they were bound to be present; the very emergency contemplated by their contract had arisen: and being there, they were bound by law, as well as their contract to obey the city authority, for the suppression of the riot. It is not only the right of two of the magistrates of the city to judge of the emergency, but it is their imperative duty, as high public officers, as conservators of the peace of the city, and the welfare of its people, to use every resource at their command to preserve the peace, by dispersing tumultuous assemblies, peaceably if they can, forcibly if they must. If such assemblages neglect or refuse quietly to disperse, on lawful requisition by the peace officers, and proceed to acts of violence and breach of the peace; it then becomes their duty, as guardians of the public safety, to quell the disturbance and subdue the rioters, by an armed force, even at the expense of life.

The statute of Maine provides, that "if any such magistrate or other officer, having notice of any such unlawful or tumultuous assembly in the city or town where he dwells, shall refuse or neglect immediately to execute his duty, in relation thereto as provided in the fifth section of this chapter, he shall be punished by a fine not exceeding $300." And if such rioters, "or any person present as spectators or otherwise, shall be killed or wounded, the said magistrates and officers, and persons acting with them, &c., shall be held guiltless and justified in law."

Can any one doubt that here was a riotous assembly? Can, or does, any one doubt, that if the rioters had not

been resisted, even unto death, the public property would have been sacrificed, public law and private rights trampled under foot, and, not improbably, many lives taken, and private sanctuaries violated, the usual results of the unrestrained license of exasperated mobs? Here was a question, not merely whether a quantity of liquor should be destroyed; for that would be of comparatively small importance; but whether law should be vindicated and triumphant, and the peace and property of the city be preserved; or whether mob violence should rule the hour, trample upon law and order, and break down the sacred barrier, which protects the life, the property, and the happiness of our people.

That this riot could not have been dispersed or quelled, and the public property protected, without resort to an armed force, in addition to that of the police, the testimony considered by the Committee, has proved to their satisfaction. The peace officers had in vain made proclamation, and issued their orders to the crowd to disperse; the Mayor, and Sheriff, and the Police Officers, were repeatedly and publicly insulted, and their authority repudiated; and renewed violence and ferocity followed every peaceful effort to disperse the assemblage and quell the tumult.

That the Mayor did not call upon an armed force, too large, or too soon, is apparent from the testimony. This additional force was not applied until the regular police were nearly overpowered, and an Alderman fresh from the scene of action, had entreated the Mayor to proceed without further delay, with the auxiliary force, to preserve the property and rescue the police from imminent peril.

There is no evidence of undue precipitancy on the

part of the Mayor, any more than there is of timidity and shrinking from duty. And while the Committee deplore the loss of life, they would, with all good citizens, have deplored much more the prostration of all law and order, before the vindictive fury of a licentious and lawless mob The city authorities had a high, arduous, and responsible duty to perform; they had to act promptly, and on a sudden emergency; the welfare of a great and wealthy community,—the lives of women and children, as well as of unoffending men,—were in their hands. Were these great interests to be sacrificed to the reckless passion and vengeance of lawless men, or were they to be protected at any cost even to the taking of life?

What kind of a government would that be, and what security would that people enjoy, if mobs were permitted to break down laws solemnly enacted by a legislature chosen by the people, of whom they are a part? That revolution in our system of government only is to be tolerated which the constitution provides; a peaceful repeal of any and all laws which are injurious to the community, or are found unwise or inexpedient.

The Committee, on a careful and laborious investigation of the whole case, are satisfied that the Mayor and other executive officers of the city did no more in the emergency, than their duty and the public service required; and that they would have proved unfaithful to their trust, had they done less.

WM. WILLIS, CHAIRMAN.

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NATH'L F. DEERING,
BYRON GREENOUH,
WM. WOODBURY,
DANIEL HOOD,
H. C. BABB,
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J. C. CHURCHILL,
SAMUEL CHASE,
W. F. FARRINGTON,
SAMUEL R. LEAVITT,
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PORTLAND, July 10, 1855.

INTENTIONAL SECOND EXPOSURE

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PORTLAND, July 10, 1855.

2250

COMMITTEE OF INVESTIGATION.

IN COMMITTEE, July 10, 1855.

VOTED, Unanimously, that the report submitted by the Chairman, on the subjects which have engaged the attention of the Committee, be and the same are hereby adopted.

VOTED, That the report be signed by all the members of the Committee, and be communicated to the Board of Aldermen.

VOTED, That it be recommended to the Board of Aldermen, that the report be printed in a pamphlet form, and in the newspapers of the city.

WM. WILLIS, CHAIRMAN.

CITY OF PORTLAND.

IN BOARD OF ALDERMEN, July 11, 1855.

The foregoing report was read and accepted by the Board, by vote taken by Yeas and Nays, viz: Yeas five—Nays one.

Attest: WM. BOYD, CITY CLERK.

NOTE.—Mr. Davies, the only member of the Committee, who did not sign the report, was absent from town when it was adopted and signed. The following note from him will explain his views:

DEAR SIR: In answer to your note, mentioning my "absence from town during the last two or three days of the Committee's session, and that I had not returned when the report was adopted and signed;" it may be due to the Committee, as well as myself, to say that I intended and expected to have returned in season to have taken part in their deliberations upon the subject and evidence before it. I regret that I could not have returned earlier. Not having had that opportunity, and only having had that of hearing the report as it was read yesterday, I am willing to say that I concurred with the Committee in all their proceedings, while I was with them. I had not time to consider all the statements and conclusions presented in the report carefully; but though it lacks my signature, I do not wish to be understood as dissenting from the general tenor and substance of it.

Truly and respectfully yours,

July 12th. C. S. DAVIES.

HON. WM. WILLIS, CHAIRMAN.

MSH 22039

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TITLE